

All –

*This is from an article I wrote a few years ago when there was a ballot initiative to allow wine sales at food stores, creating a third category of retail liquor license. (It failed.) I have copied just the part here that explains how the different kinds of licenses work, because I thought it might be useful background before the Atkins hearing on Monday.*

Stephanie

## **Excerpted from inAmherst.com 10/19/06 “Laws of the land: local liquor retail regulations”**

No surprise though that liquor sales are highly regulated in this state. Every detail related to its manufacture, importation, storage, transport and sale requires multi-level applications, approvals, permits and fees. The category at issue here is Chapter 138, Section 15: “the sale of alcoholic beverages not to be drunk on premises.”

The “not to be drunk on premises” part identifies this as the store license category, as opposed to Section 12, which deals with on-premises consumption, such as bars and restaurants.

In the store license category, there are currently two types: the “all-alcoholic beverages” license and the “wine and malt beverages only” license.

Where things get complicated is the determination of how many of each license are available. According to the law, “No person, firm, corporation, association, ... shall be granted, in the aggregate, more than three such licenses in the commonwealth ...” That explains why Whole Foods in Hadley sells beer and wine, but many other Whole Foods in the state do not. The law limits all entities to three licenses statewide, in any combination of the “all-alcoholic” and “wine and malt” types.

The question of how many licenses are available in a town or city is determined by a quota system based on population count from the most recent federal census.

According to an explanation of the quota law in the “Blue Book” document issued by the state’s Alcoholic Beverages Control Commission, “Each city or town may issue one off-premise (Section 15) all-alcoholic license for each unit of 5,000 persons (or fraction thereof) with a minimum of 2. One wine and malt license may be granted for each unit of 5,000 persons (or fraction thereof) with a minimum of 5.”

Amherst’s population, according to the 2000 census, was 34,874. According to the numbers above, that entitles the town to seven all-alcohol licenses and seven wine and malt licenses.

A quick check with Town Hall reveals that the town has eight all-alcohol licenses and seven wine and malt licenses.

Why is that? Because in 1990, Amherst’s census count was 35,228, making the town eligible for eight licenses. The quota isn’t reduced by a decrease in population if the license is in use, so the higher

(over)

number prevails. However, if the holder of one of those all-alcohol licenses were to relinquish it, the current quota would revert to seven.

The eight holders of all-alcohol licenses in Amherst are: Amherst Wines & Spirits, Big Guys Liquors, R & P Package Store, Russell's Package Store, South Amherst Liquor Mart, Spirit Haus, University Liquors and Watroba's.

But of Amherst's seven allowed wine and malt licenses, only two are in use – Cousin's Food Market and Cushman General Store. That means there is potential for five additional stores in Amherst to be granted wine and malt licenses.

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Full article: [http://www.inamherst.com/2006/10/laws\\_of\\_the\\_land\\_local\\_liquor.html](http://www.inamherst.com/2006/10/laws_of_the_land_local_liquor.html)

## Arcamo, Judith

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**From:** Bagg, Jeffrey  
**Sent:** Friday, February 26, 2010 11:41 AM  
**To:** Arcamo, Judith  
**Subject:** FW: Atkins

FYI.

**From:** Seaman, Katherine  
**Sent:** Wednesday, December 09, 2009 1:58 PM  
**To:** Bagg, Jeffrey  
**Subject:** RE: Atkins

Thanks Jeff! ☺

*Kate Seaman*  
Administrative Assistant  
Select Board/Town Manager's Office  
4 Boltwood Avenue  
Amherst, MA 01002  
Phone: 413-259-3002/413-259-3001  
Fax: 413-259-2405

**From:** Bagg, Jeffrey  
**Sent:** Wednesday, December 09, 2009 1:04 PM  
**To:** Seaman, Katherine  
**Cc:** Weeks, Bonita  
**Subject:** Atkins

Kate,

I spoke with the Building Commissioner. She concluded that as long as alcohol is not being "served", and is only being sold as "retail", then it is compatible with the existing uses on site. Because there is no "change in use", no land use permit is necessary (Bonnie did ask if there were any state laws that prohibit the sale of alcohol in grocery stores?).

I will contact John Thibbitts and let him know this information — and that he should continue to speak with you.

Please let me know if you have any questions.

Sincerely,

Jeffrey R. Bagg  
Senior Planner  
Town of Amherst  
Planning Department  
413-259-3187  
[baggj@amherstma.gov](mailto:baggj@amherstma.gov)

Town of




AMHERST

Massachusetts

TOWN HALL  
4 BOLTWOOD AVENUE  
AMHERST, MA 01002-2301

TO: Chief Livingstone, Amherst Police Department

FROM: Judith Arcamo, Town Manager's Office 

DATE: February 12, 2010

RE: New Wine & Malt Package Store Liquor License for Atkins Fruit Bowl, Inc. d/b/a Atkins Farms Country Market

Attached is a request for a new Wine & Malt Package Store Liquor License for **Atkins Fruit Bowl, Inc. d/b/a Atkins Farms Country Market**, (Manager: John Thibbitts). Please review the application and forward your recommendation to me as soon as possible as the Select Board will vote on the application on March 1, 2010.

Thank you.

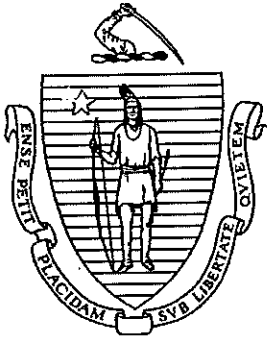
Approved/Denied:

  
Scott Livingstone, Chief of Police

Date:

2/16/2010





# The Commonwealth of Massachusetts

Alcoholic Beverages Control Commission

239 Causeway Street

Boston, MA 02114

## Application for Alcoholic Beverage License for Retail Sale

City/Town: Amherst

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> New License | <input type="checkbox"/> New Officer/Director |
| <input type="checkbox"/> Transfer of License    | <input type="checkbox"/> Other _____          |
| <input type="checkbox"/> Transfer of Stock      | (specify)                                     |

### Section 1

Name to appear on the license: Atkins Fruit Bowl, Inc.

Business Name (d/b/a, if different): Atkins Farms Country Market

Manager of Record: John N. Thibblits FID of Licensee: \_\_\_\_\_

Address of Premises: 1150 West St., Amherst MA Zip Code: 01002

Phone number of premises: 413-253-9528

### Section 2 Type of license: (check one only)

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Club               | <input checked="" type="checkbox"/> Package Store | <input type="checkbox"/> Veterans Club |
| <input type="checkbox"/> General on Premise | <input type="checkbox"/> Restaurant               | <input type="checkbox"/> Other _____   |
| <input type="checkbox"/> Innholder          | <input type="checkbox"/> Tavern                   |  |

### Section 3 License Category

- |   |   |
|---|---|
| <input type="checkbox"/> All Alcoholic                      | <input checked="" type="checkbox"/> Wine and Malt |
| <input type="checkbox"/> Malt Only                          | <input type="checkbox"/> Wine Only                |
| <input type="checkbox"/> Wine and Malt with Cordials Permit |   |

### Section 4 License Class

- |  |                                   |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> Annual | <input type="checkbox"/> Seasonal |
|--|-----------------------------------|

### Section 5 Person (attorney if applicable) who can be contacted concerning this application

Name: David Thornton

Address: 1150 West St., Amherst MA 01002

Phone Number: 413-253-9528 (work) 413-658-8366 (cell)

**Section 6** Give a full description of the premises to be licensed, including location of all entrances and exits:  
 Atkins is a retail specialty food market featuring both homemade and local goods, including bakery, deli,  
 meat & seafood, gourmet cheese, candy, gift baskets and flowers. A single entrance is located at the  
 front and east side of the building; a single exit is located at the front and south side of the building.

6a. Seating Capacity: 46 Occupancy Number: 365

**Section 7**  
 Applicant is an:

( ☐ ) Association ( ☒ ) Corporation ( ☐ ) Individual  
 ( ☐ ) Partnership ( ☐ ) Non-profit corporation ( ☐ ) LLC

**Section 8** If applicant is an individual or partnership -- List for individual or each partner:

Full Name	Home Address	DOB	SSN
Pauline Lannon	260 E. Leverett Rd., Amherst MA 01002	06-04-41	
David Thornton	4 N. Washington St., Belchertown, MA 01007	01-04-57	
Harold Gould	1371 South East St., Amherst, MA 01002	06-10-34	

8a. Is individual or all partners United States citizens? ( ☒ ) Yes ( ☐ ) No

If no, specify citizenship: \_\_\_\_\_

8b. Is individual or all partners involved at least twenty-one years old? ( ☒ ) Yes ( ☐ ) No

**Section 9** If the applicant is a corporation, complete the following:

State of Incorporation: MA Date of Incorporation: 1969

Date qualified to do business in MA: 1969

9a. How many shares of stock are authorized: 1160 How many shares are issued: 715

Provide in the box the names if all officers, directors, stockholders and manager.  
 Use \* to indicate director

Title	Full Name	Home Address	DOB	SSN	Shares of stock owned or controlled
President	*Pauline Lannon	260 E. Leverett Rd., Amherst MA	06-04-41		329
Treasurer	*David Thornton	4 N. Washington St., Belchertown, MA	01-04-57		65
Secretary	*Harold Gould	1371 South East St., Amherst, MA	06-10-34		227

9b. Attach a copy of the vote by the Board of Directors appointing a manager or principal representatives.

9c. If the applicant is a corporation, answer the following questions:

1. Are the majority of directors United States citizens? ☒ Yes ☐ No
2. Are the majority of directors citizens of Massachusetts? ☒ Yes ☐ No
3. Is the manager or principal representative a U.S. citizen? ☒ Yes ☐ No

**Section 10** If the applicant is an association, provide in the box below the names of all association officers and members.

Title	Full Name	Home Address	DOB	SSN	Phone Number

10b. Attach a list of all members of the LLC.

**Section 11** Will there be any construction, remodeling, redecorating or building on the premises for this license?  
☐ Yes ☒ No (If yes complete a,b, c and d)

a. Give an exact description of the construction, remodeling, redecorating or building on the premises:

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b. What are the estimated costs: \_\_\_\_\_

c. What is the construction schedule: \_\_\_\_\_

d. State all sources of construction financing: \_\_\_\_\_

**Section 12**

Do you own the premises? ☐ Yes ☒ No. If yes, please respond to the question below.

☐ As an individual ☐ Jointly \_\_\_\_\_ Name of Realty Trust

\_\_\_\_\_ Name of Corporation

☐ Other \_\_\_\_\_

(If you do not own the premises to be licensed, provide the following information about the owner.)

Name: Orchard Run Associates Phone Number: 413-253-9528

Address: 1150 West St., Amherst MA 01002

12a. If a lease or rental, provide the following information: \$ 4500 per week  
(month, year, etc.)

Beginning date of lease 1995 Ending Date of lease 2015  
(provide copy of the lease)

### FINANCIAL

#### Section 13

What assets were purchased and cost?

Equipment: \$ \_\_\_\_\_ Furniture: \$ \_\_\_\_\_ Goodwill: \$ \_\_\_\_\_

Inventory: \$ \_\_\_\_\_ License: \$ \_\_\_\_\_ Premise: \$ \_\_\_\_\_

13a. Total Purchase Price: \$ \_\_\_\_\_

13b. Identify below all sources of financing:

Mortgage: \$ \_\_\_\_\_ Seller: \$ \_\_\_\_\_

Cash: \$ \_\_\_\_\_ Other (specify): \$ \_\_\_\_\_

Document all sources e.g. Loan papers, checking accounts, stock sales, etc.

13c.

All other terms and conditions: \_\_\_\_\_  
(provide purchase and sale documents)

13d. Are you seeking approval for license to be pledged: ( ☐ ) Yes ( ☒ ) No

If yes, to whom: \_\_\_\_\_

13e. Will the inventory be pledged: ( ☐ ) Yes ( ☒ ) No

If yes, specify to whom: \_\_\_\_\_

13f. If a corporation, are you seeking approval for any corporate stock to be pledged:

( ☐ ) Yes ( ☒ ) No

If yes, identify to whom and identify the number of shares: \_\_\_\_\_

### OWNERSHIP INTERESTS

Section 14 State the following information for all persons or entities who will have any direct or indirect beneficial or financial interest in this license:

Full Name	Home Address	DOB	SSN	Phone Number
Pauline Lannon	260 E. Leverett Rd., Amherst MA 01002	06-04-41		413-549-3594
David Thornton	4 N. Washington St., Belchertown, MA 01002	01-04-54		413-323--5565
Harold Gould	1371 South East St., Amherst, MA 01002	06-10-34		413-253-5609



14a. Describe all types of beneficial or financial interest each person or entity identified in Question 14 will have in this license:

Person or entity	Beneficial or financial interest
Pauline Lannon	no annual dividends; no short-term ONLY long-term increase in stock value
David Thornton	no annual dividends; no short-term ONLY long-term increase in stock value
Harold Gould	no annual dividends; no short-term ONLY long-term increase in stock value

14b. Does any person or entity listed in Question 14 have any direct or indirect beneficial or financial interest in any other license granted under Chapter 138?

( ☐ ) Yes ( ☒ ) No

Name	Type of license	License Name and Address	Description of Interest

14c. Has any person or entity named in Question 14 ever held a license or a beneficial interest in a license issued under Chapter 138 which is not presently held? ( ☐ ) Yes ( ☒ ) No  
(If yes, provide the following for each person or entity.)

Name	Type of License	License Name and Address	Date ownership surrendered

14d. Describe how all licenses in Question 14c were terminated (e.g. transfer of ownership, non-renewal, surrender, etc.)

Date	License	Reason why the license was terminated

14e. Has any person or entity named in Question 14 ever had a license suspended, revoked or cancelled?

( ☐ ) Yes ( ☒ ) No

(If yes, provide the following information)

Date	License	Reason why the license was suspended, revoked or cancelled

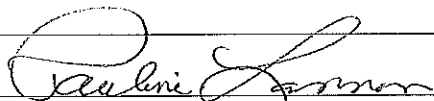
14f. Has any person or entity named in Question 14 ever been convicted of violating any state, federal or military law? ( ) Yes ( ☒ ) No

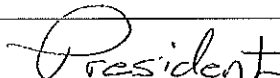
15.    a.    Each individual applicant must sign.  
      b.    Applications by a partnership must be signed by a majority of the partners.  
      c.    Applications by a corporation must be signed by an officer authorized by a vote of the corporations Board of Directors.  
      d.    Applications by an association must be signed by a majority of the members if the governing body. All signers must have answered question 10.  
      e.    False information or failure to disclose are reasons to revoke a license or deny a license application.

Signed and subscribed to under the penalty of perjury, this 13 day of January, 20<sup>10</sup>.

By: Signature of Full Name

Title





## ATKINS FRUIT BOWL, INC.

## ACTION BY CONSENT OF ALL STOCKHOLDERS

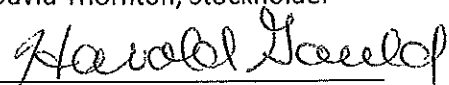
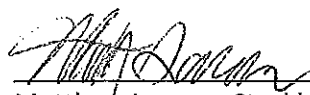
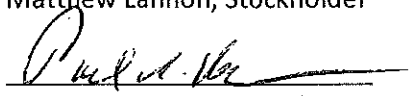

May 12, 2009

The undersigned, being all of the Stockholders of Atkins Fruit Bowl, Inc. (the "Corporation"), and pursuant to the provisions of Massachusetts General Laws and the By-Laws of this Corporation, hereby consent to the following actions and adopt the following votes in lieu of the Annual Meeting of Stockholders for 2009:

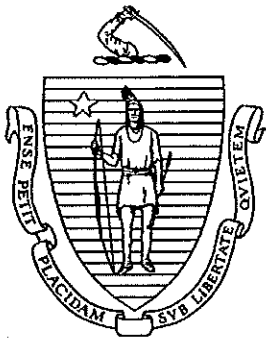
VOTED: That **PAULINE LANNON, DAVID THORNTON AND HAROLD GOULD** be elected to serve as Directors of the Corporation to act for the ensuing year.

VOTED: To ratify and confirm all of the acts of the officers and Directors for the preceding year.

This consent vote shall be filed with the records of the meetings of the Corporation and for all purposes be treated as legally binding actions taken by all of the Stockholders of said Corporation.

  
Pauline Lannon, Stockholder  
David Thornton, Stockholder  
Harold Gould, Stockholder  
Matthew Lannon, Stockholder  
Paul Hodgkins, Stockholder  
Michael Lannon, Stockholder

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The Commonwealth of Massachusetts  
ALCOHOLIC BEVERAGES CONTROL COMMISSION

**FORM A**  
**LICENSEE PERSONAL INFORMATION SHEET**

THIS FORM MUST BE COMPLETED FOR EACH:

- ☒ A. NEW LICENSE APPLICANT  
☐ B. APPOINTMENT OR CHANGE OF MANAGER  
IN A CORPORATION  
☐ C. TRANSFER OF LICENSE (RETAIL ONLY-SEC. 12 & SEC. 15)

(Please check which transaction is the subject of an application accompanying this Form A.)

PLEASE TYPE OR PRINT ALL INFORMATION

ALL QUESTIONS MUST BE ANSWERED AND TELEPHONE NUMBERS PROVIDED OR  
APPLICATION WILL NOT BE ACCEPTED.

1. LICENSEE NAME Atkins Fruit Bowl, Inc.  
(NAME AS IT WILL APPEAR ON THE LICENSE)
2. NAME OF (PROPOSED) MANAGER John N. Thibbitts
3. SOCIAL SECURITY NUMBER \_\_\_\_\_
4. HOME (STREET) ADDRESS 502 Amherst Road, South Hadley, MA 01075
5. AREA CODE AND TELEPHONE NUMBER (S): (Give both, your home telephone and a number at which you can be reached during the day).  
DAY TIME # 413-253-9528 HOME# 413-210-8980
6. PLACE OF BIRTH: Hudson, NY 7. DATE OF BIRTH: 10-17-1969
8. REGISTERED VOTER: ☒ YES ☐ NO 8A. WHERE?: South Hadley, MA
9. ARE YOU A U. S. CITIZEN: ☒ YES ☐ NO
10. COURT AND DATE OF NATURALIZATION (IF APPLICABLE): \_\_\_\_\_  
(Submit proof of citizenship and/or naturalization such as Voter=s Certificate, Birth Certificate or Naturalization Papers)

11. FATHER'S NAME: John F. Thibbitts 12. MOTHER'S MAIDEN NAME: Arline P.Oliveira

13. IDENTIFY YOUR CRIMINAL RECORD, (Massachusetts, Military, any other State or Federal): ANY OTHER ARREST OR APPEARANCE IN CRIMINAL COURT CHARGED WITH A CRIMINAL OFFENSE REGARDLESS OF FINAL DISPOSITION:  
☐ YES ☒ NO (MUST CHECK EITHER YES OR NO)

IF YES, PLEASE DESCRIBE OFFENSE (S) SPECIFIC CHARGE AND DISPOSITION (FINE, PENALTY, ETC.)

14. PRIOR EXPERIENCE IN THE LIQUOR INDUSTRY: ☒ YES ☐ NO  
IF YES, PLEASE DESCRIBE:

Worked on the sales floor at Table and Vine, a retail wine store in western Massachusetts.

15. FINANCIAL INTEREST, DIRECT OR INDIRECT, IN THIS OR ANY OTHER LIQUOR LICENSE, PERMIT OR CERTIFICATE: ☐ YES ☒ NO

IF YES, PLEASE DESCRIBE:

16. EMPLOYMENT FOR THE LAST TEN YEARS (Dates, Position, Employer, Address and if known, Telephone Numbers):

2003-present, Project Manager, Atkins, 1150 West St., Amherst, MA 01002, 413-253-9528

2003-2005, Retail Sales, Table & Vine, West Springfield, MA 01089, 413-736-4694

1998-2003, Purchasing & Receiving, California Grill at Walt Disney World, Orlando, FL 32830

17. HOURS PER WEEK TO BE SPENT ON THE LICENSED PREMISES: 40-60

18. I HEREBY SWEAR THAT UNDER THE PAINS AND PENALTIES OF PERJURY THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

BY:



PROPOSED MANAGER SIGNATURE

01-13-2010

DATE

Atkins Farms County Market

1150 West St.

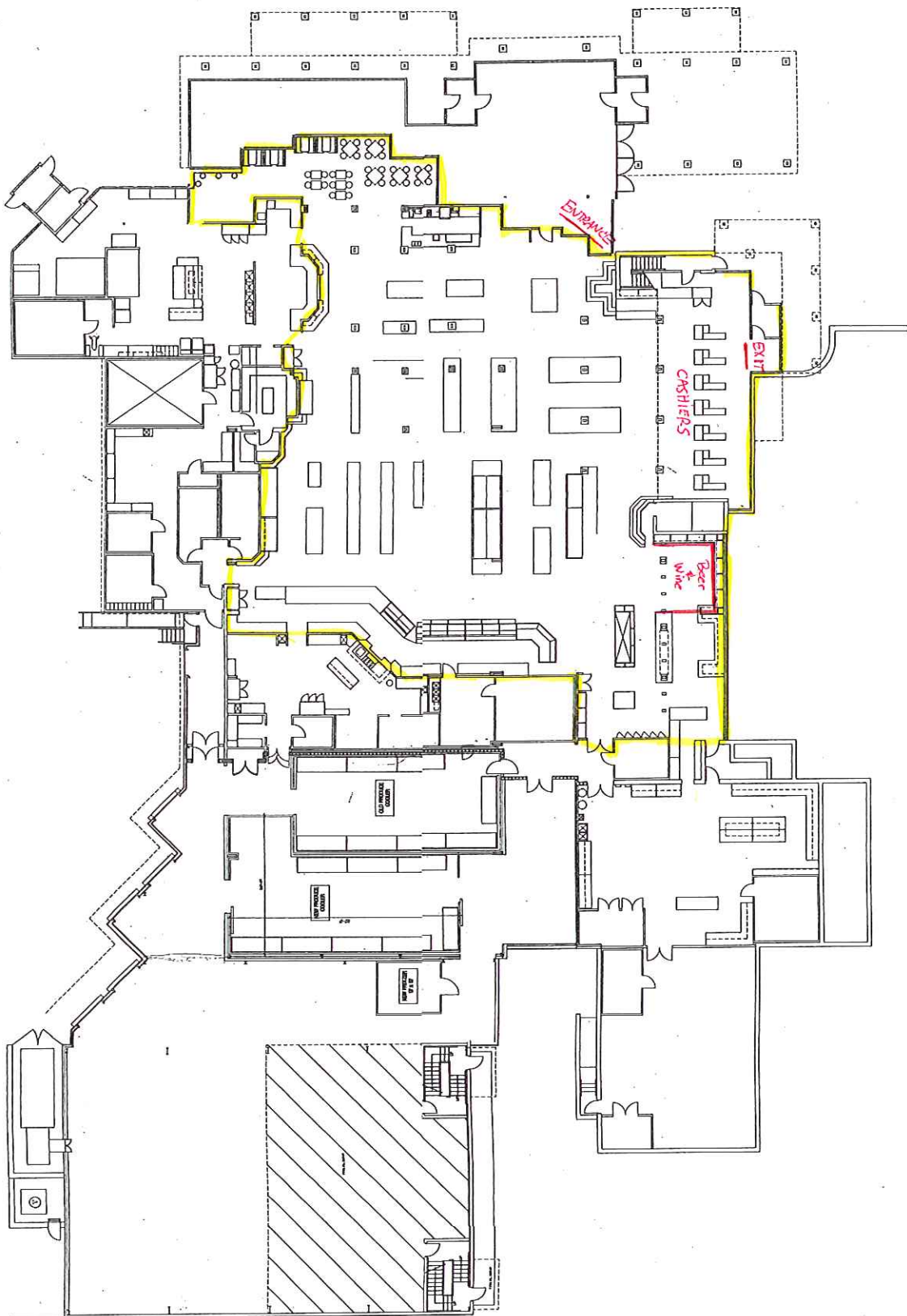
Amherst, MA 01002

413-253-9528

Yellow highlighted area

indicates retail sales  
floor, approximately  
11,000 sq. ft.

Red highlighted area  
indicates approximate  
space for prepared  
beer and wine.



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